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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/871,199	05/31/2001	James M. Kain	20341-67618	9889
7590	05/18/2006		EXAMINER EDELL, JOSEPH F	
Richard A. Rezek Barnes & Thornburg 11 South Meridian Street Indianapolis, IN 46204			ART UNIT 3636	PAPER NUMBER

DATE MAILED: 05/18/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/871,199	Applicant(s) KAIN, JAMES M.	
	Examiner Joseph F. Edell	Art Unit 3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 4-9 and 11-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-24 is/are allowed.
- 6) ☒ Claim(s) 4-9, 11-14 and 25-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 6-9, 11, 12, 25, and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,478,372 B1 to Lemmeyer et al. in view of U.S. Design Patent No. 254,889 to Marrujo.

Lemmeyer et al. disclose a seat assembly that is basically the same as that recited in claims 6-9, 11, 12, 25, and 27-29 except that the support mount lacks upper wings, as recited in the claims. See Figures 1-7 of Lemmeyer et al. for the teaching that the seat assembly has a seat 10 (Fig. 2) with a seat bottom 14 (Fig. 2) and seat back 12 (Fig. 2), a cantilevered armrest 16 (Fig. 2) projecting from the seat back, an arm (Fig. 1B) with a free end 21 (Fig. 1B) included in the cantilevered armrest, a top surface 104 (Fig. 1B) of the arm adapted to support a forearm of an occupant, a lower edge 106 (Fig. 1B) of the arm spaced below the top surface, a support mount 19 (Fig. 1B) appended to the arm and coupled to the seat back wherein the support mount has inner and outer flanges (Fig. 1B) positioned to lie in spaced-apart relation to receive a ridge of the seat back in a U-shaped channel 101 (Fig. 1B) formed in the support mount between the inner and outer flanges, fastener apertures 120,122 (Figs. 1A-1B) formed

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in the inner and outer flanges and the ridge of the seat back, a first fastener (column 6, lines 6-12) coupled to the apertures in the support mount and seat back to maintain the arm in the cantilevered position, and a second fastener (column 6, lines 6-12) coupled to the apertures in the support mount and seat back and arranged to lie between the first fastener and the seat bottom. Marrujo shows a support mount similar to that of Lemmeyer et al. wherein the support mount (Fig. 1) is attached to an arm and includes an inner flange, an outer flange positioned to lie in spaced-apart relation to the inner flange forming a U-shaped channel, and each flange formed to include an upper wing rising above the arm and having a fastener aperture and formed to include a lower wing extending below the arm with a second fastener aperture. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the seat assembly of Lemmeyer et al. such that the each flange of the support mount is formed to include upper wings rising above the top surface of the arm and away from the seat bottom, the upper wings include a fastener apertures for the first fastener such that the first fastener is arranged to lie above the top surface of the arm, each flange includes lower wings extending below the arm such that the second fastener is coupled to the lower wing, such as the support mounted disclosed in Marrujo. Applicants have not disclosed that having the upper and lower wings on the flanges solves any stated problem or is for any particular purpose. Accordingly, the use of the upper and lower wings on the flanges is deemed to be merely a design consideration which fails to patentably distinguish over the prior art. In the alternative, it

would have been additionally obvious to one of ordinary skill in the art to make such a modification since it is known that a wider support mount would provide greater support.

3. Claims 11, 12, and 27-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,316,373 to Markel.

Markel discloses a seat assembly that is basically the same as that recited in claims 11, 12, and 27-29 except that the armrest is not specified as non-pivotable, as recited in the claims. Markel shows a seat assembly having a seat 8 (see Fig. 1) with a seat bottom and a seat back, a cantilevered armrest 10 projecting from the seat back, an arm 12 of the armrest with a free end, a top surface, a support mount 14 appended to the arm and coupled to the seat back to support the arm in a cantilevered position, a first fastener 26 (see Fig. 4) coupled to the support mount and seat back to maintain the arm in the cantilevered position, a second fastener 26 coupled to the support mount and seat back and arranged to lie between the armrest and the seat bottom, a flange 18,20,22 (see Fig. 7) formed to include upper and lower wings extending above and below the arm and coupled to the fasteners, and a ridge 16 of the seat back positioned to lie adjacent to the upper wing wherein the first fastener is arranged to lie above the top surface of the arm to cause the arm to lie between the first fastener and the seat bottom when the arm is in the cantilevered position, and the first fastener is coupled to apertures (Fig. 7) in the upper wing of the support mount and apertures in the ridge of the seat back to maintain the arm in the cantilevered position. Although Markel shows the armrest as pivotable, it would have been obvious to one having ordinary skill in the art to omit the pivoting elements of the armrest to simplify the armrest's assembly, since

it has been held to be within the general skill of a worker in the art to eliminate an element or its function as a matter of obvious engineering choice.

4. Claims 13, 14, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmeyer et al. in view of Marrujo as applied to claims 6-9, 11, 12, 25, and 27-29 above, and further in view of U.S. Patent No. 207,764 to Mitchell.

Lemmeyer et al., as modified, disclose a seat assembly that is basically the same as that recited in claims 13, 14, and 26 except that the armrest lacks a load support panel, as recited in the claims. Mitchell shows a seat assembly similar to that of Lemmeyer et al. wherein the seat assembly has a seat (see Fig. 2) including a seat bottom and back G,E, a cantilevered armrest J projecting from the seat back and including an arm with a free end, a top surface and a support mount appended to the arm and coupled to the seat back to support the arm in a cantilevered position, an outer flange of the support mount coupled to the arm and arranged to receive a ridge of the seat back, and a generally flat load support panel (see column 2, lines 34-37) fixed to the cantilevered armrest to lie in a fixed position relative to the arm and the support mount and to engage the ridge of the seat back via a lower edge. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat assembly of Lemmeyer et al. such that the armrest includes a load support panel fixed to the cantilevered armrest to lie in a fixed position relative to the arm and the support mount and to engage the ridge of the seat back to block pivotable movement of the cantilevered armrest toward the seat bottom about a pivot axis established by the first fastener, and a lower edge of the load support panel

engaging the ridge of the seat back and lying in a position between the inner and outer flanges of the support mount, such as the seat assembly disclosed in Mitchell. One would have been motivated to make such a modification in view of the suggestion in Mitchell that the lower support panel provides compensation for any weakness resulting from the ridge being thinner than the seat back.

5. Claims 4 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmeyer et al. in view of Marujo as applied to claims 6-9, 11, 12, 25, and 27-29, and further in view of U.S. Patent No. 4,274,674 to Deloustal.

Lemmeyer et al., as modified, disclose a seat assembly that is basically the same as that recited in claims 4 and 31 except that the fastener lengths are not specified, as recited in the claims. Deloustal discloses a seat assembly similar to that of Lemmeyer et al. wherein the seat assembly has a seat bottom 1 (see Fig. 1), a seat back 2, a support mount 4, inner and outer flanges 4a (see Fig. 3), a first fastener at axis 3 with a first length, a second fastener 12 with a second length longer than the first length, and a tab 20,21. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat assembly of Lemmeyer et al. such that the second fastener has a second length longer than the first length of the first fastener, such as the seat assembly disclosed in Deloustal. One would have been motivated to make such a modification in view of the suggestion in Deloustal that the longer second fastener provides connection to a tab for attaching the seat assembly to the seat belt apparatus of a vehicle seat.

6. Claims 5 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lemmeyer et al. in view of Marrujo as applied to claims 6-9, 11, 12, 25, and 27-29, and further in view of U.S. Patent No 5,297,851 to Van Hekken.

Lemmeyer et al., as modified, disclose a seat assembly that is basically the same as that recited in claims 5 and 30 except that the fasteners lacks a barrel and screw, as recited in the claims. See column 6, lines 6-12 of Lemmeyer et al. for the teaching that the armrest include fasteners that are rivets, bolts, or other conventional fasteners. Van Hekken shows a seat assembly similar to that of Lemmeyer et al. wherein each fastener (Fig. 4) includes a barrel 50 (Fig. 4) with a first end and an opposite threaded open end, an enlarged head (Fig. 4) coupled to the first end, and a screw 32 (Fig. 4) threaded to fit in and mate with the threaded open end of the barrel. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to further modify the seat assembly of Lemmeyer et al. for that teaching that each fastener includes a barrel with a first end and an opposite threaded open end, an enlarged head coupled to the first end, and a screw threaded to fit in and mate with the threaded open end of the barrel to couple the support mount to the seat back, such as the seat assembly disclosed in Van Hekken. One would have been motivated to make such a modification in view of the suggestion in Van Hekken that the threaded barrel and screw configuration of each fastener allow for easy attachment of plastic seat parts while lessening the instance of stress fractures in the plastic.

Allowable Subject Matter

7. Claims 15-24 are allowed.

Response to Arguments

8. Applicant's arguments filed 14 March 2006 have been fully considered but they are not persuasive. Applicant states that agreement was reached regarding the teachings of Markel. Examiner agreed that a 35 USC 102 anticipatory rejection would be improper in view of the proposed amendments to claim 11, 12, and 27. However, 35 USC 103(a) rejection in view of Markel is appropriate for reasons set forth above.

Applicant argues that rejection of claims 6-9, 11, 12, 25, and 27-29 as being unpatentable over Lemmeyer et al. in view of Marrujo because Marrujo fails to teach or suggest wings rising above the top surface of the arm. While the orientation of the wings in the Figures of Marrujo is not specified, Marrujo clearly teaches wings of a support mount extending away from the outer surfaces of the arm. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include wings on the armrest's support mount of Lemmeyer et al. Because of the horizontal orientation of the armrest of Lemmeyer et al. the modified wings of the support mount extend above and below the surfaces of the armrest. See Diagram A below to clarify the teachings of Lemmeyer et al. in view of Marrujo.

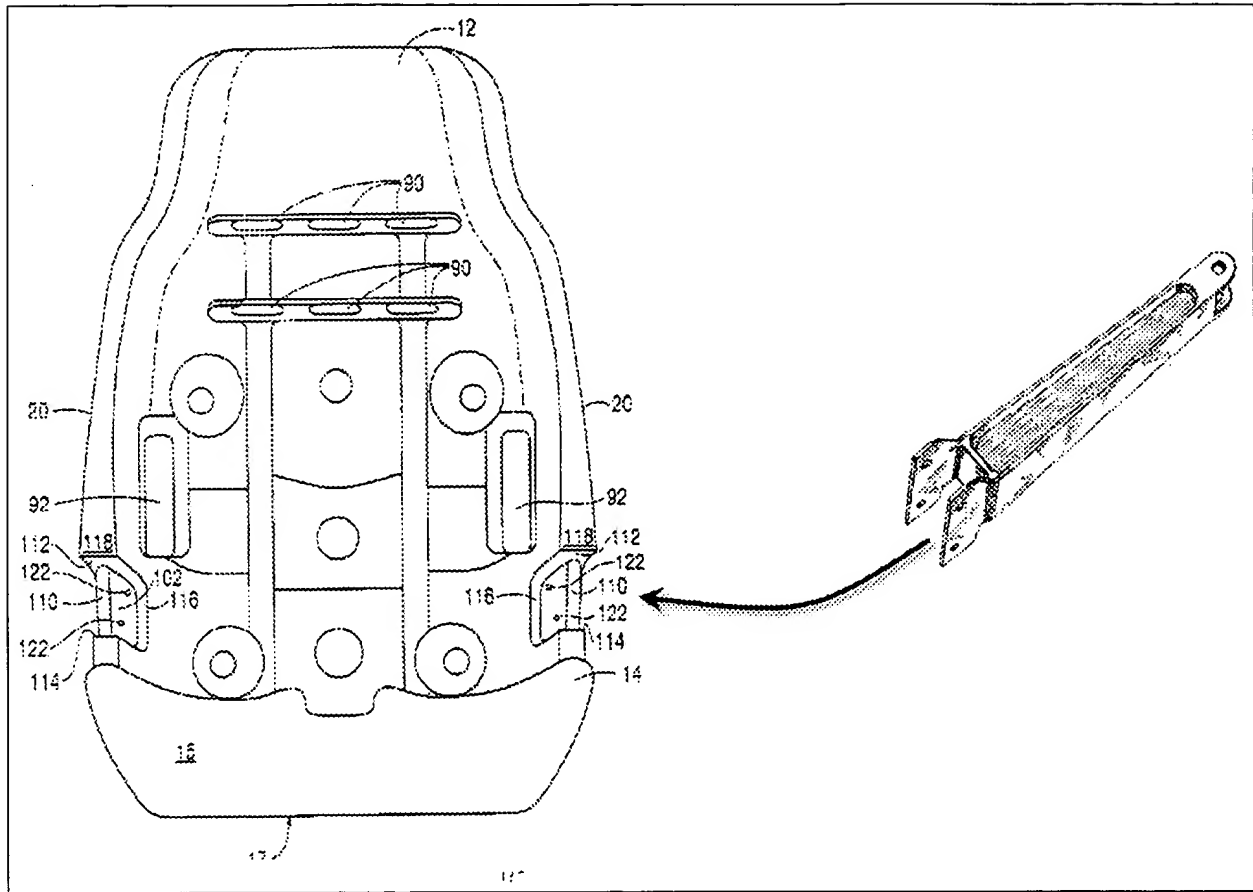


Diagram A - Annotated Figure 1A of Lemmeyer et al.

Next, Applicant argues that including wings on the armrest of Lemmeyer et al. would preclude the armrest from abutting upper and lower shelves 112,114 of the seat back ridge (shown in Fig. 1A of Lemmeyer et al.). This argument is unpersuasive for two reasons. First, it would have been obvious to one of ordinary skill in the art to widen the opening formed between the upper and lower shelves of Lemmeyer et al. to accommodate upper and lower wings extending from the armrest construction shown in Figure 1B. See Diagram B below.

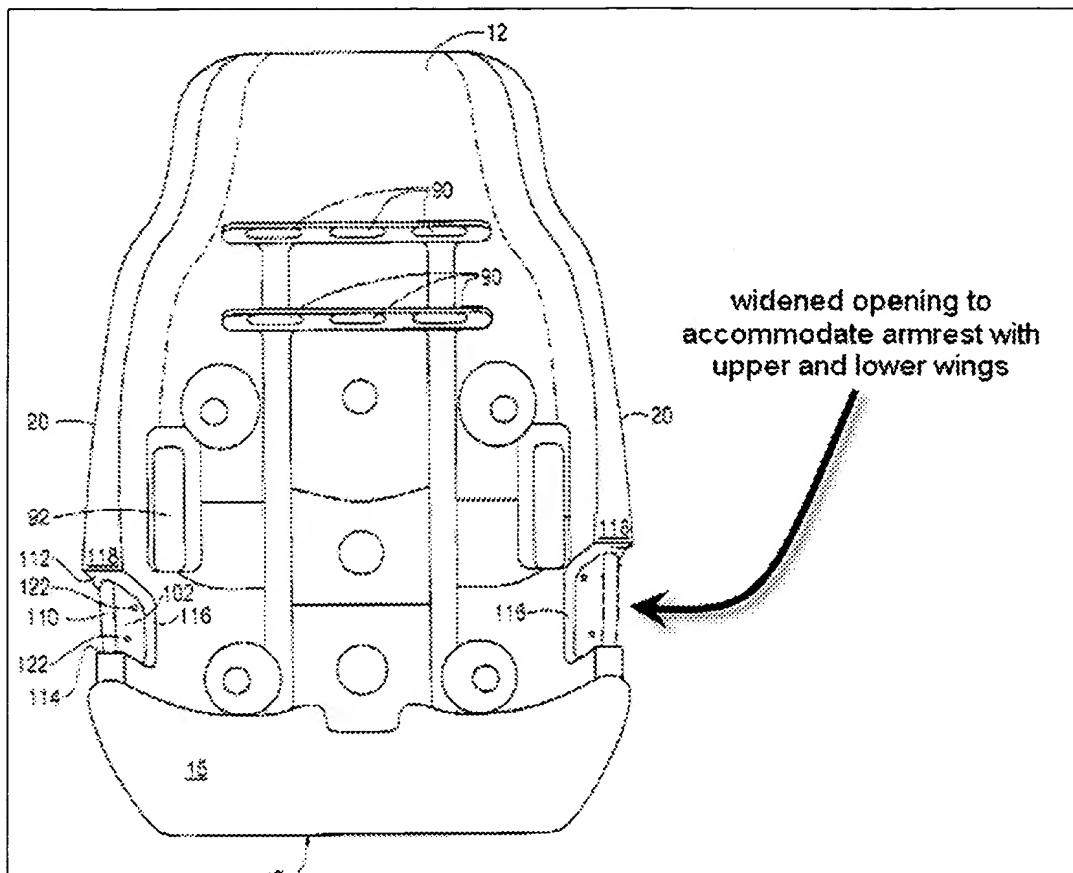


Diagram B - Annotated Figure 1A of Lemmeyer et al.

Alternatively, it would have been obvious to one of ordinary skill in the art to decrease the width of the armrest such that the support mount has upper and lower wings to extend above and below the armrest while coupling the tongue 110 between the upper and lower shelves 112,114. See Diagram C below.

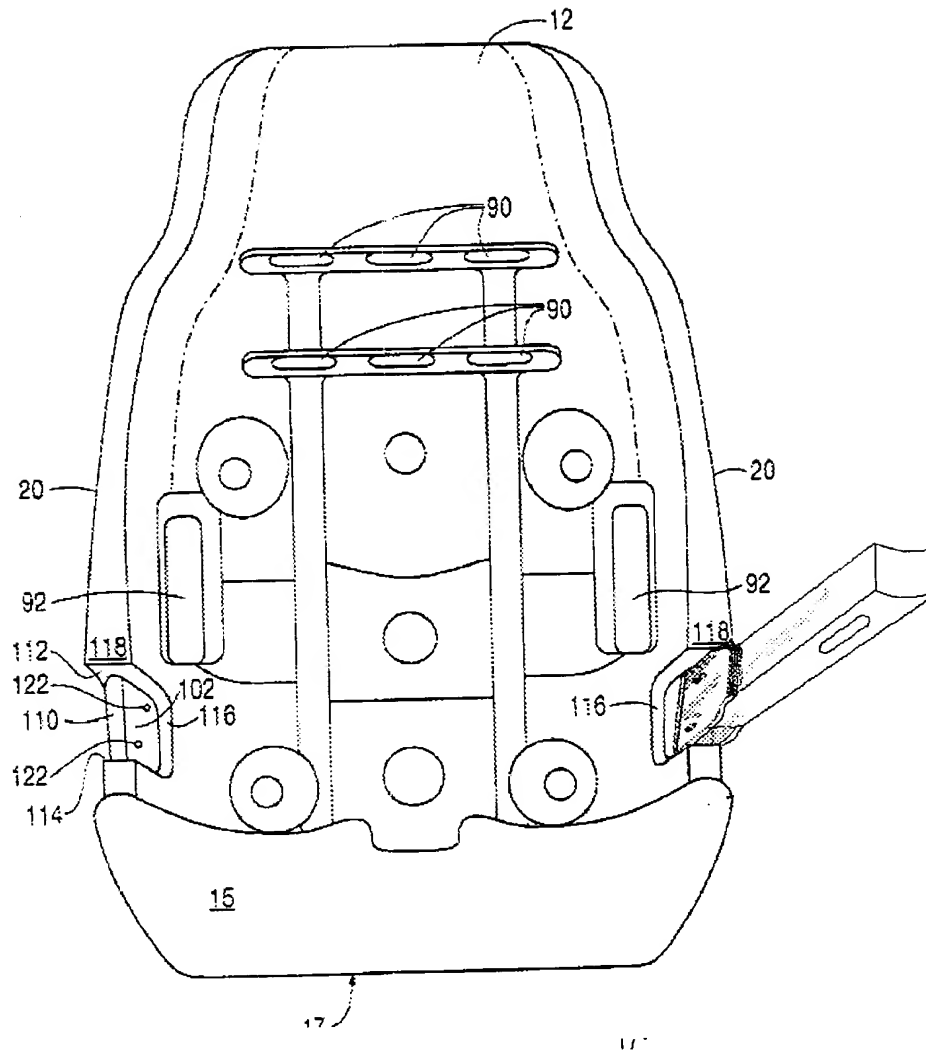


Diagram C - Annotated Figure 1A of Lemmeyer et al. showing the support mount of Marrujo appended to the armrest shown in Figure 1B.

Lastly, Applicant argues that there is no motivation to combine the teachings of Lemmeyer et al. in view of Marrujo. The motivation to combine the references exists from the knowledge generally available to one of ordinary skill in the art. See MPEP § 2143.01. See the above rejection for the motivation.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph F. Edell whose telephone number is (571) 272-6858. The examiner can normally be reached on Mon.-Fri. 8:30am-5:00pm.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

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JE

May 15, 2006



Peter M. Cuomo
Supervisory Patent Examiner
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